

DECISION
MINOR VARIANCE / PERMISSION
Section 45 of the *Planning Act*

Date of Decision:	December 16, 2022
File No(s):	D08-02-22/A-00252
Owner(s):	2665883 Ontario Inc.
Location:	260 Armstrong Street
Ward:	15-Kitchissippi
Legal Description:	Part of Lots 1322 & 1324, Registered Plan 157
Zoning:	MC12[110] F (3.0) H (19)
Zoning By-law:	2008-250
Hearing Date:	December 7, 2022

PURPOSE OF THE APPLICATION

- [1] The Owner wants to demolish the existing three-unit dwelling and construct a low-rise apartment dwelling, as shown on plans filed with the Committee.

RELIEF REQUIRED

- [2] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:

- a) To permit a reduced lot area of 252 square metres, whereas the Zoning By-law requires a minimum lot area of 464 square metres.
- b) ~~To permit a reduced total amenity area of 33.69 square metres (5.6 square metres per unit), whereas the Zoning By Law requires a minimum total amenity area of 36 square metres (6 square metres per unit)~~
- c) To permit a reduced front yard setback of 1.3 metres, whereas the By-law requires a minimum front yard setback of 3 metres.

- [3] The application indicates that the Property is ~~the subject of a Site Plan Control Application (D07-12-21-0196)~~ **not the subject of any other current application** under the *Planning Act*.

PUBLIC HEARING

- [4] Prior to the Hearing on October 19, 2022, the Committee received an adjournment request from Margot Linker, of the City's Planning, Real Estate and Economic Development Department, to allow additional time for the Applicant to finalize the Site Plan Approval application and to have discussions with area residents and the Planning Department regarding their concerns. At the Hearing, the Committee heard from Paul Robinson, Agent for the Applicant, who agreed with the adjournment requested by Ms. Linker. With the concurrence of all parties the application was adjourned to December 7, 2022.
- [5] At the Hearing on December 7, 2022, the Chair administered an oath to Mr. Robinson, who confirmed that the statutory notice posting requirements were satisfied.
- [6] Mr. Robinson informed the Committee that upon further discussion with City planning officials, the total amenity area was revised to meet the zoning requirement, eliminating the need for variance (b). Mr. Robinson advised that, following the adoption of Bill 23 *More Homes Built Faster Act, 2022* on November 28, 2022, developments of up to 10 residential units are exempted from Site Plan Control. He also advised that, further to discussions between the Applicant, the arborist, the property owner of 258 Hamilton Avenue, and City's Forester, it was determined that the tree located between the subject property and 258 Hamilton Avenue is not a boundary tree.
- [7] The Committee also heard from Slava Jdanov of 8 Hamilton Avenue who expressed concerns regarding the existing fence and tree and believed the proposal is not minor, not desirable, and does not meet the intent of the Zoning By-law.
- [8] In response to questions from the Committee, Mr. Robinson confirmed that the communal amenity area exceeds the required amount of 18 square metres within the rear yard. In response to concerns raised by Mr. Jdanov, Mr. Robinson confirmed that the existing fence will be maintained. He also confirmed that the trunk of the tree is solely on the subject property and the root flare extends 10 cm into 8 Hamilton Avenue. He noted the City Forester agreed the tree could be removed.
- [9] Nancy Young, the City's Infill Forester, confirmed that the tree in question is indeed on the subject property. In response to questions from the Committee, she confirmed that under the *Forestry Act*, the definition of a jointly owned tree is where a portion of the tree trunk crosses the boundary between adjoining lands.
- [10] City Planner Margot Linker, in response to questions from the Committee, highlighted the definition of amenity area under the Zoning By-law as follows: "the total passive or active recreational area provided on a lot for the personal, shared or communal use of the residents of a building or buildings, and includes balconies, patios, rooftop gardens and other similar features, but does not include indoor laundry or locker facilities." She confirmed the revised plans provide the

required minimum amount amenity area and that variance (b) is no longer required. With the concurrence of Mr. Robinson, the Committee amended the application to delete variance (b).

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED
AS AMENDED**

- [11] The Committee considered all written and oral submissions relating to the application in making its Decision.
- [12] The Committee has the power to authorize a minor variance from the provisions of the Zoning By-law if, in its opinion, the application meets all four requirements under subsection 45(1) of the *Planning Act*. It requires consideration of whether the variance is minor, is desirable for the appropriate development or use of the land, building or structure, and whether the general intent and purpose of the Official Plan and the Zoning By-law are maintained.
- [13] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [14] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that "providing a reduced front yard setback will not interfere with a planned contiguous front yard setback line."
- [15] The Committee also notes that no cogent evidence was presented that the variances would result in any unacceptable adverse impact on adjacent properties or the neighbourhood in general.
- [16] Considering the circumstances, the Committee finds that because the proposal fits well in the area, the requested variances are, from a planning and public interest point of view, desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [17] The Committee also finds that, because the proposal is a compact, small-scale design that respects the character of the neighbourhood, the requested variances maintain the general intent and purpose of the Official Plan.
- [18] In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development on the property that is compatible with the surrounding area.
- [19] Moreover, the Committee finds that the requested variances are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [20] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in

accordance with the revised plans filed, Committee of Adjustment date stamped November 29, 2022, as they relate to the requested variances.

"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

Absent
STAN WILDER
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Bonnie Oakes Charron"
BONNIE OAKES CHARRON
MEMBER

"Michael Wildman"
MICHAEL WILDMAN
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **December 16, 2022**.



Michel Bellemare
Secretary-Treasurer

NOTICE OF RIGHT TO APPEAL

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form along with payment must be received by the Secretary-Treasurer of the Committee of Adjustment by **January 5, 2023**, delivered by email at cofa@ottawa.ca and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,
101 CentrepoinTE Drive, 4th floor, Ottawa, Ontario, K2G 5K7

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The Ontario Land Tribunal has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application. Payment can be made by certified cheque or money order made payable to the Ontario Minister of Finance, or by credit card. Please indicate on the Appeal Form if you wish to pay by credit card. If you have any questions about the appeal process, please contact the Committee of Adjustment office by calling 613-580-2436 or by email at cofa@ottawa.ca.

Only the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A “specified person” does not include an individual or a community association.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal to extend the statutory deadline to file an appeal. If the deadline is not met, the OLT does not have the authority to hold a hearing to consider your appeal.

Ce document est également offert en français.

Committee of Adjustment
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederoation
cded@ottawa.ca
613-580-2436